

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JACQUELINE BEEBE, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

V&J NATIONAL ENTERPRISES, LLC, et al.,

Defendants.

ORDER

17-CV-6075W

Plaintiff Jacqueline Beebe (“Beebe”), individually and on behalf of all others similarly-situated, having filed a motion to compel and for sanctions (Docket # 157), defendants having opposed the motion and cross-moved for a protective order (Docket # 159), this Court having reviewed the parties’ submissions, and oral argument having been conducted on August 23, 2018, it is hereby

ORDERED, for the reasons stated more fully on the record on August 23, 2018, that Beebe’s motion to compel and for sanctions (**Docket # 157**) is **GRANTED in part and DENIED in part**, and defendants’ cross-motion for a protective order (**Docket # 159**) is **DENIED**. Specifically, the Court grants Beebe’s motion to compel the production of electronic data and records and directs the parties to confer in good faith to agree on a protocol to search for responsive electronically stored information. The parties shall submit a jointly proposed protocol to the Court on or before **September 6, 2018**. The Court also grants Beebe’s motion to compel the production of hard copy documents on a schedule to be agreed upon by the parties. The parties shall submit a jointly proposed schedule for production of these documents to the

Court on or before **September 6, 2018**. The Court denies Beebe's request for production of all opt-in plaintiffs' arbitration agreements based upon the representation by defendants' counsel that all such arbitration agreements have been produced. Further, the Court grants in part Beebe's request for production of documents relating to defendants' sale of the Pizza Hut restaurants, but directs the parties to confer in good faith regarding the scope of such production. It is further

ORDERED, that defendants are directed to reimburse plaintiffs' attorneys' fees and costs incurred in connection with this motion to compel and for sanctions (**Docket # 157**). The parties are directed to confer regarding the amount of attorneys' fees and costs to be reimbursed and to inform the Court on or before **September 6, 2018**, whether such agreement has been reached. In the event that no such agreement is reached **by September 6, 2018**, plaintiff shall file a sworn affidavit by that date attesting to the amount of attorneys' fees and costs incurred in connection with the motion. To the extent defendants contest these amounts, they must file an affidavit in opposition **by no later than September 20, 2018**.

IT IS SO ORDERED.



MARIAN W. PAYSON
United States Magistrate Judge

Dated: Rochester, New York
August 23, 2018